

## REMARKS

### *Rejections under 35 U.S.C. § 103*

#### Claims 1, 2, 4, 8, 12, 13, 15, 19, 23, 24, 26, 30, 34, 35, 41 and 45

Claims 1, 2, 4, 8, 12, 13, 15, 19, 23, 24, 26, 30, 34, 35, 41 and 45 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent 5,629,752 to Kinjo in view of U.S. Patent 6,542,625 to Lee et al. Lee qualifies as prior art only under 35 U.S.C. § 102(e) because it issued after Applicant's filing date. Applicant does not admit that Lee is prior art and reserves the right to challenge it at a later date. Nonetheless, Applicant respectfully submits that the combination does not teach each and every element of the invention as claimed in claims 1, 2, 4, 8, 12, 13, 15, 19, 23, 24, 26, 30, 34, 35, 41 and 45.

The Examiner is apparently equating Kinjo's determination of differences in density with Applicant's claimed color gradient and color gradient map. However, a thorough reading of Kinjo reveals that Kinjo considers density and color as two distinct parameters. For example, at col. 3, lines 21-27, Kinjo describes dividing the image into regions based on the densities or the colors of the pixels (*see also* col. 7, lines 38-43). Also, at col. 7, lines 25-28, Kinjo describes determining an exposure amount for printing the image based on "at least one of a color and a density of the determined region", i.e. either the color or the density, or both, can be used. Finally, at col. 37, line 66 through col. 38, line 3, Kinjo states that an average density or an average color may be set as the typical value for a block of the image. It is thus clear that Kinjo does not equate density with color. Therefore, the Examiner's assertion that Kinjo's density gradient is equivalent to Applicant's claimed color gradient and color gradient map is unsupported by Kinjo.

Furthermore, the Examiner is asserting that Kinjo's binarization of an image into regions is equivalent to Applicant's intensity values and intensity map. Kinjo discloses that the binarization is based on hue values, and optionally saturation values (col. 5, line 50 through col. 6, line 5). However, Applicant uses the term "intensity" to refer to the amount of ambient light that is reflected (or absorbed) by the objects in the image (page 6, lines 15-19, page 7, lines 13-25). Applicant respectfully reminds the Examiner that while claims are interpreted broadly, the terms in a claim must be interpreted in light of the Specification [MPEP 2110.01 III]. When Applicant's claims are interpreted correctly,

it is apparent that Kinjo does not teach or suggest the claimed intensity values or intensity map.

Lee only discloses that objects in an image that have been detected by different algorithms can be combined to estimate where a human face may appear in an image. Lee's detection algorithms depend on object movements and colors that are characteristic of humans. Lee does not disclose either a color gradient (map) or an intensity value (map) as claimed by Applicant.

Therefore, the combination of Kinjo and Lee does not teach each and every limitation of Applicant's invention as claimed in claim 1, 2, 4, 8, 12, 13, 15, 19, 23, 24, 26, 30, 34, 35, 41 and 45, and Applicant respectfully requests the withdrawal of the rejection of the claims under 35 U.S.C. § 103(a) over the combination.

**Claims 3, 5 14, 16, 25, 27, 36 and 38**

Claims 3, 5 14, 16, 25, 27, 36 and 38 stand rejected under 35 U.S.C. § 103(a) over the combination of Kinjo and Lee in view of U.S. Patent 5,583,659 to Lee et al. Applicant respectfully submits that the combination does not disclose each and every limitation in claims 3, 5 14, 16, 25, 27, 36 and 38.

Claims 3, 5 14, 16, 25, 27, 36 and 38 depend from one of independent claims 1, 12, 23 and 34. Because the base combination of Kinjo and Lee does not teach or suggest the color gradient (map) or intensity value (map) limitations of the independent claims, Lee '659 must do so to establish a proper *prima facie* case of obviousness for claims 3, 5 14, 16, 25, 27, 36 and 38. However, Lee '659 is directed toward determining of edges in gray-scale images. Therefore, Lee cannot be properly interpreted as teaching or suggesting Applicant's claimed color gradient or color gradient map.

Accordingly, the combination of Kinjo, Lee and Lee '659 does not render obvious Applicant's invention as claimed in claims 3, 5 14, 16, 25, 27, 36 and 38, and Applicant respectfully requests the withdrawal of the rejection of the claims under 35 U.S.C. § 103(a) over the combination.

**Claims 6, 7, 9-11, 17, 18, 20-22, 28, 29, 31-33, 39, 40 and 42-44**

Claims 6, 7, 9-11, 17, 18, 20-22, 28, 29, 31-33, 39, 40 and 42-44 stand rejected under 35 U.S.C. § 103(a) over the combination of Kinjo and Lee in view of U.S. Patent

5,781,650 to Lobo et al. Applicant respectfully submits that the combination does not disclose each and every limitation in claims 6, 7, 9-11, 17, 18, 20-22, 28, 29, 31-33, 39, 40 and 42-44. Claims 6, 7, 9-11, 17, 18, 20-22, 28, 29, 31-33, 39, 40 and 42-44 depend from one of independent claims 1, 12, 23 and 34. Because the base combination of Kinjo and Lee does not teach or suggest the color gradient (map) or intensity value (map) limitations of the independent claims, Lobo must do so to establish a proper *prima facie* case of obviousness for claims 6, 7, 9-11, 17, 18, 20-22, 28, 29, 31-33, 39, 40 and 42-44. However, Lobo is directed toward finding facial-like shapes in an image. Lobo does not teach or suggest any of the color gradient, color gradient map, intensity values, and intensity map as claimed by Applicant.

Accordingly, the combination of Kinjo, Lee and Lobo does not render obvious Applicant's invention as claimed in claims 6, 7, 9-11, 17, 18, 20-22, 28, 29, 31-33, 39, 40 and 42-44, and Applicant respectfully requests the withdrawal of the rejection of the claims under 35 U.S.C. § 103(a) over the combination.

#### **SUMMARY**

Claims 1-45 are currently pending. In view of the foregoing remarks, Applicant respectfully submits that the pending claims are in condition for allowance. Applicant respectfully requests reconsideration of the application and allowance of the pending claims.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Sue Holloway at (408) 720-8300 x309.

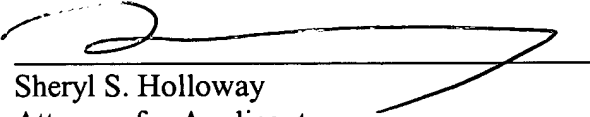
**Deposit Account Authorization**

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

Respectfully submitted,

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